

[30th April 1960]

APPENDIX VI.

[Vide item IV (1) on page 954 supra.]

REPORT OF THE JOINT SELECT COMMITTEE ON THE
MADRAS BUILDINGS (LEASE AND RENT CONTROL)
BILL, 1959 (L.A. BILL No. 20 OF 1959).

To

The Hon. the LEGISLATIVE ASSEMBLY,
MADRAS.

The Joint Select Committee appointed to consider the Madras Buildings (Lease and Rent Control) Bill, 1959 (L.A. Bill No. 20 of 1959), has the honour to make the following report.

2. The Bill was published in English in Part IV-A of the *Fort St. George Gazette* Extraordinary, dated 9th September 1959 and in Tamil in the *Fort St. George Gazette*, dated 23rd September 1959.

3. The Joint Select Committee was appointed by a resolution of the Assembly, dated 12th September 1959 and of the Council, dated 18th September 1959.

4. The Joint Select Committee met in the Committee Room, Legislators' Hostel (Old), Government Estate, Madras, on the 27th October 1959 and on the 23rd November 1959 and subsequently in the Lounge Room, Fort St. George, Madras, on the 24th November, 21st December 1959, 21st and 26th February 1960, 9th and 23rd March 1960, 7th and 26th April 1960.

5. At its first meeting on 27th October 1959 the Committee decided to invite memoranda from the public and also take oral evidence.

6. Certain individuals and representatives of some associations were examined by the Joint Select Committee at its meeting held on 23rd November 1959.

7. At its subsequent sittings the Committee considered the provisions of the various clauses and took the following decisions :—

(i) Non-residential buildings shall be completely exempted from all provisions of the Act;

(ii) in building where a portion is used for non-residential purpose and the other portion for residential purpose, all the provisions of the Act shall apply to the portion used as residence;

(iii) allotment in future should be made only to such Government servants (both Central and State) as are new comers to the City and to people like Technical experts and others for whom Government of India or Government of Madras are under obligation to find accommodation;

30th April 1960]

(iv) letting out of a portion of a building occupied by the owners may be permitted; and

(v) buildings, the construction of which would be completed after the passing of the present Bill may be exempted from all provisions of the Act.

In the light of the above decisions, the Committee has amended the various clauses of the Bill and the important changes in the clauses are noted below :—

Clause 1.

The proviso to sub-clause (2) (a) of this clause originally empowered the Government to exclude by notification only Municipalities from the operation of the Act. The Committee has now included the City of Madras also within the scope of this proviso.

Sub-clause (3) originally provided for the Act to be in force for a period of *five* years. It has now been changed to *three* years.

Clause 2.

Item (2), viz., definition of the word “buildings” as it stood in the Bill meant buildings used for residential and non-residential purposes. This definition has been changed to mean only buildings used for residential purposes.

An Explanation has also been added so that any portion in a non-residential building which is used or is capable of being used for residential purposes would come within the meaning of ‘building’.

A new item defining the word ‘repairs’ has been added as item (7). Item (7) of the original Bill, viz., the definition of the word ‘tenant’ has been renumbered as item (8) and has been modified to include legal representatives of a deceased tenant also within the meaning of the word.

Clause 3.

Sub-clause (1) (a) originally required only the landlord to give notice of vacancy. Now the tenant has also been made liable to give notice of vacancy within seven days on his ceasing to occupy a building. Further, a second Explanation has been added to the effect that if a buyer (1) who, having obtained vacant possession of a building in pursuance of a sale, lets the whole of it to a tenant or allows the whole of it to be occupied by any person, or (2) who without obtaining such vacant possession, allows the seller to occupy the whole of the building, he shall be deemed to have failed to give notice.

Sub-clause (3) provided a ten days limit within which the authorized officer should intimate to the landlord that the building the required for allotment to any officer of the State or Central

[30th April 1960]

Government. This period has been reduced to seven days. The Explanation under this sub-clause which provided that a building required for an office of the Andhra State or for an officer of that Government should be deemed to be required for the State Government of Madras has been deleted. A new provision in sub-clause (10) has been added to the effect that section 3 shall not apply to a building only or part of which is occupied by the full owner and the whole or any portion of the remaining part is let to any tenant. A new provision has also been added to the effect that the provisions of Accommodation Control shall not apply to buildings, the rent of which is more than Rs. 250.

Clause 4.

In regard to fixation of fair rent, the Committee decided that fair rent might be fixed at six per cent gross return per annum on the total cost of the building. The buildings have been classified into four categories and the cost of the building of each category has to be calculated according to the following formula :—

Class I Buildings	..	Rs. 16 per square foot in ground floor.
		Rs. 13 per square foot in first floor.
		Rs. 12 per square foot in second floor.
Class II Buildings	..	Rs. 13 per square foot in ground floor.
		Rs. 10 per square foot in first floor.
		Rs. 9 per square foot in second floor.
Class III Buildings	..	Rs. 10 per square foot.
Class IV Buildings	..	Rs. 5 per square foot.

In the case of Class I and Class II buildings an additional rate of Rs. 2 per square foot of floor area shall be allowed for the portions where mosaic flooring with skirting is provided. It is also proposed to allow depreciation on the cost of the building to be so calculated. The cost of the land upon which the building stands will also be allowed. Allowance will also be made for other factors like gardens, features of architectural interests, etc.

The general principles have been incorporated in the Bill. A new clause has been added for empowering the Government to frame rules indicating therein the rate indicated above and the procedure to be followed in fixing fair rents, has been added.

Clause 10.

Sub-clause (2), item (iii) originally provided that if a tenant had committed such acts of waste as are likely to impair materially the value of the building, he will be liable to be evicted. It was decided that cases where the tenant had been instrumental or he had permitted such acts of waste should also be brought within the scope of the clause. Provision has been made accordingly.

30th April 1960]

A new item has been added providing for the eviction of such tenants as have been convicted under any law of an offence of using the building or allowing the building to be used for immoral or illegal purposes.

Sub-clause (3) (a) (i) provided that a landlord might apply to the Controller for possession if he requires his building for his own occupation. This sub-clause has been modified enabling the landlord to apply for possession of a building if he required it for the occupation of his son also.

Clauses 12 to 16.

These clauses relate to delivery of vacant possession of the building to the landlord (1) for carrying out repairs and (2) for demolishing it for the purpose of putting up new construction. It has been provided that buildings which are reconstructed after demolition shall be treated like newly constructed buildings and the out-going tenant will not have the right to come back. They have been redrafted making certain charges. Important among them are given below :—

Clause 12.

This clause relates to the recovery of possession by landlord for repairs or for reconstruction of building in respect of which the Government shall be deemed to be the tenant. Sub-clause (3) (a) provided that the authorised officer shall not pass an order for giving possession unless the landlord gave an undertaking that the building shall on completion of repairs be offered to the authorized officer before the expiry of three months from the date of recovery of possession. The authorized officer has now been authorized to extend this period to the extent necessary for reasons to be recorded in writing. Further, the provisions that existed in the original Bill stipulating certain conditions regarding the plinth area, etc., have been omitted.

Sub-clause (1) (b) provided for recovery of possession for the demolition of a building for reconstruction. As in the case of sub-clause (3) (b) the authorized officer is empowered to extend the period. Sub-clause (7) which contained penal provisions applicable to defaulting landlords has been omitted and included under Clause 33 as revised.

Clause 13.

This clause relates to issue of notice by the authorized officer to the landlord in certain cases. Sub-clauses (3) and (4) have been omitted.

[30th April 1960]

Clause 14.

This clause relates to the recovery of possession of a building for repairs or for reconstruction. As in the case of clause 12, the Controller has been empowered to extend the period of three months to the extent necessary for reasons to be recorded in writing.

Clauses 15 and 16.

These clauses relate to reoccupation of the building by the tenant after repairs and where the landlord fails to demolish the building and reconstruct it. The penal provisions contained in these clauses have been omitted and included in clause 33 as revised.

Clause 21.

This clause relates to conversion of residential building into non-residential building. Under sub-clause (2) of the original Bill the buildings taken over by Government under section 3 (5) were exempted from the above provisions. This exemption has been removed by omitting sub-clause (2). This will enable the landlord to apply for the conversion of residential buildings under Government tenancy into non-residential buildings.

Clause 30.

This is a new clause providing that this Act shall not apply to buildings completed after the commencement of this Act.

Clause 33.

This is clause 32 of the original Bill.

The clause as it originally stood prescribed a penalty of simple imprisonment for three months or a fine of Rs. 2,000 or both. This has been reduced to only a fine of Rs. 1,000.

Clause 36.

This is a new clause which provides that the Act should apply to non-residential buildings used for State or Central Government purposes or for the purpose of any local authority or of any public institution under the control of such Government.

8. A copy of the Bill is amended and approved by the Joint Select Committee is appended.

9. The Committee considers that the changes made by it are not of such important character as to require the republication of the Bill.

10. Some of the members have given minutes of dissent, which are annexed.

30th April 1960]

ANNEXURE.

[*Note.*—The changes made are sidelined or underlined and the portions omitted are indicated by dots.]

- A** *Bill to amend and consolidate the law relating to the regulation of the letting of residential . . . buildings and the control of rents of such buildings and the prevention of unreasonable eviction of tenants therefrom in the State of Madras.*

WHEREAS it is expedient to amend and consolidate the law relating to the regulation of the letting of residential . . . buildings and the control of rents of such buildings and the prevention of unreasonable eviction of tenants therefrom in the State of Madras;

BE it enacted in the Eleventh Year of the Republic of India as follows :—

1. Short title, application, commencement and duration.—

(1) This Act may be called the Madras Buildings (Lease and Rent Control) Act, 1960.

(2) (a) This Act, except sub-sections (2) and (8) of section 3, shall apply to the City of Madras and to all municipalities constituted or deemed to have been constituted under the Madras District Municipalities Act, 1920 (Madras Act V of 1920), in the State :

Provided that the Government may, by notification, direct that this Act shall cease to apply to any municipality specified therein or to the City of Madras from such date as may be mentioned in the notification.

(b) Sub-sections (2) and (8) of section 3 shall apply to the City of Madras or any municipality constituted or deemed to have been constituted under the Madras District Municipalities Act, 1920 (Madras Act V of 1920), in the State only from such date as the Government may, by notification, appoint.

(c) The Government may, by notification, apply all or any of the provisions of this Act except sub-section (2) of section 3, to any other area in the State with effect from such date as may be specified in the notification, and may cancel or modify any such notification.

(3) It shall remain in force for a period of three years.

2. Definitions.—In this Act, unless the context otherwise requires—

(1) “ authorized officer ” means any officer authorized by the Government under sub-section (1) of section 3;

[30th April 1960]

(2) " building " means any building or hut or part of a building or hut, let or to be let separately for residential . . . purposes only and includes—

(a) the garden, grounds and out-houses, if any, appurtenant to such building, hut or part of such building or hut and let or to be let along with such building or hut,

(b) any furniture supplied by the landlord for use in such building or hut or part of a building or hut, but does not include a room in a hotel or boarding house;

Explanation.—Any portion of a non-residential building which is separate and is used or is capable of being used for residential purposes only shall be deemed to be a building.

(3) " Controller " means any person appointed to perform the functions of a Controller under this Act;

(4) " date of the commencement of this Act " means—

(a) in relation to the City of Madras and to all municipalities constituted or deemed to have been constituted under the Madras District Municipalities Act, 1920 (Madras Act V of 1920), the date on which this Act is published in the *Fort St. George Gazette*, and

(b) in relation to any other area, the date specified in the notification under clause (c) of sub-section (2) of section 1;

(5) " Government " means the State Government;

(6) " landlord " includes the person who is receiving or is entitled to receive the rent of a building, whether on his own account or on behalf of another or on behalf of himself and others or as an agent, trustee, executor, administrator, receiver or guardian or who would so receive the rent or be entitled to receive the rent, if the building were let to a tenant;

Explanation.—A tenant who sub-lets shall be deemed to be a landlord within the meaning of this Act in relation to the sub-tenant.

(7) " repairs " means the restoration of a building to a sound or good state after decay or injury but does not include additions, improvements or alterations except in so far as they are necessary to carry out such restoration;

(8) " tenant " means any person by whom or on whose account rent is payable for a building and includes the surviving spouse, or any son, or daughter, or the legal representative of a deceased tenant who had been living with the tenant in the building as a member of the tenant's family up to the death of the tenant and a person continuing in possession after the termination of the tenancy in his favour, but does not include a person placed in occupation of a building by its tenant . . .

30th April 1960]

3. *Notice of vacancy*.—(1) (a) (i) Every landlord shall, within seven days after the building becomes vacant,—

(A) by his ceasing to occupy it, or

(B) by the termination of a tenancy, or

(C) by the eviction of the tenant, or

(D) where any such building has been requisitioned under any law for the time being in force other than this Act, by release from such requisition,

give notice of the vacancy in writing to the officer authorized in that behalf by the Government.

(ii) Every tenant shall, within seven days after the building becomes vacant, by his ceasing to occupy it or by the termination of his tenancy, give notice of the vacancy in writing to the officer authorized in that behalf by the Government.

Explanation I.—A landlord who, having obtained possession of a building under sub-section (3) of section 10, lets the whole of it to a tenant, shall be deemed to have failed to give notice under this section.

Explanation II.—A buyer—

(i) who having obtained vacant possession of a building in pursuance of a sale of such building, lets the whole of it to a tenant, or allows the whole of it to be occupied by any person; or

(ii) who, without obtaining such vacant possession, allows the seller to occupy the whole of the building, shall be deemed to have failed to give notice under this section.

(b) Every notice given under clause (a) shall contain such particulars as may be prescribed.

(2) In any municipality (including the City of Madras) to which this sub-section has been applied under clause (b) of sub-section (2) of section 1, where the tenant of a building puts another person in occupation thereof and does not re-occupy it within a period of three months, then, on the expiry of such period, the tenancy shall be deemed to have been terminated and it shall be the duty of the tenant, and also of the landlord if he is aware of such termination, to give notice thereof in writing to the authorized officer within seven days of such termination :

Provided that where the tenant obtains written permission from the authorized officer to re-occupy the building within a period of six months, this sub-section shall have effect as if for the period of three months specified therein a period of six months were substituted.

[30th April 1960]

Explanation.—This sub-section shall not apply where the building has been sub-let by a tenant entitled to do so, after giving due notice to the authorized officer under sub-section (1) and in conformity with the provisions of this section.

(3) If, within seven days of the receipt by the authorized officer of a notice under sub-section (1) or sub-section (2), the Government or the authorized officer do or does not intimate to the landlord in writing that the building is required for the occupation of any officer of the State or Central Government, the landlord shall be at liberty to let the building to any tenant or to occupy it himself.

(4) Where intimation is given under sub-section (1), the landlord shall not let the building to a tenant or occupy it himself, or use or permit the use of the building in any manner by any other person before the expiry of the period of seven days specified in sub-section (3), unless in the meantime he has received intimation from the authorized officer that the building is not required for occupation by any of the officers, specified in that sub-section.

(5) If the building is required for occupation by any of the officers specified in sub-section (3), the landlord shall deliver possession of the building and the fixtures and fittings in or on the building, in good tenantable repairs and condition, to the authorized officer, or to the allottee named by the authorized officer, as the case may be, and the Government shall be deemed to be the tenant of the landlord, with retrospective effect from the date on which the authorized officer received notice under sub-section (1) or sub-section (2), the terms of the tenancy being such as may be agreed upon between the landlord and the tenant and in default of an agreement, as may be determined by the Controller :

Provided that where the landlord fails to deliver possession of the building to the authorized officer within forty-eight hours of the receipt of the intimation that the building is required for occupation by any of the officers specified in sub-section (3), or within such further time as the authorized officer may by order in writing allow, the Government shall be deemed to be the tenant of the landlord only from the date on which he delivers possession :

Provided further that where owing to any omission or act or obstructive or preventive tactics on the part of the landlord there has been delay in coming to a decision whether or not the building is required for occupation by any of the

30th April 1960]

officers specified in sub-section (3), the Government shall be deemed to be the tenant of the landlord only from such later date as may be fixed by the authorized officer having regard to the circumstances of each case :

Provided also that the rent payable shall be the fair rent, if any, fixed for the building under the provisions of this Act; and if no fair rent has been so fixed, such reasonable rent as the authorized officer may determine, in such manner as may be prescribed :

Provided also that the reasonable rent fixed by the authorized officer under the foregoing proviso shall be subject to such fair rent as may be fixed by the Controller.

Explanation.—Where before the fixation of fair rent, rent has been paid in excess thereof, the refund or adjustment shall have retrospective effect from the date on which the Government shall be deemed to be the tenant of the landlord, provided the application for fixation of fair rent is made within a period of ninety days from such date; where such application is made after the said period of ninety days, the refund or adjustment shall be limited to the amount paid in excess for the period commencing on the date of application by the tenant or landlord for the fixation of fair rent and ending with the date of such fixation :

Provided also that on the delivery of possession of the building, the allottee shall pay rent to the landlord proportionately for any part of the calendar month of his occupation, and in advance on or before the 5th day of each calendar month :

Provided also that no structural alterations shall be made in the building, unless the consent of the landlord is also obtained therefor.

(6) If, in the case of a . . . building the possession of which has been delivered to the authorized officer under sub-section (5) and in the occupation of an officer of the State or Central Government, the fair rent is subsequently fixed at an amount not exceeding twenty-five rupees per month, the said officer shall be deemed to have become the tenant of the landlord on the date on which such fair rent is fixed on the same terms, except as to rent, as obtained between the landlord and the Government on the said date.

(7) In cases not falling under sub-section (5), where the landlord lets the building to any tenant after giving notice to the authorized officer under sub-section (1) or sub-section (2) and without having occupied the building himself, or used or permitted the use of the building in any manner by any other

[30th April 1960]

person, the tenancy shall be deemed to have been antedated by the number of days during which the landlord was prohibited from letting the building to any tenant by virtue of sub-section (4), and the tenant shall be liable to pay rent for those days also.

(8) (a) Where a landlord has two or more residential buildings in the same city, town or village and they have not been already let by him, then within fifteen days from the date on which this sub-section has been applied under clause (b) of sub-section (2) of section 1 to the city, town or village, as the case may be, or from the date on which the landlord commenced to have more than one such building, whichever is later, the landlord may choose any one of such buildings for his own occupation and shall give notice to the authorized officer of the building so chosen by him and of every other building not so chosen.

(b) When giving notice as aforesaid, the landlord shall also specify therein—

(i) whether he requires any such building for the occupation of any member of his family or any dependant of his and, if so, where the member or dependant, as the case may be, is residing and the necessity for any change of residence; and

(ii) such other particulars as may be prescribed.

(c) The authorized officer may, if he is satisfied that the building is required *bona fide* for the occupation of any member of the family of the landlord or of any of his dependants, make an order permitting the landlord to allow such member or dependant, as the case may be, to occupy the building for a specified or an unspecified period; and if the authorized officer is not so satisfied, he shall make an order refusing such permission.

(d) Any landlord who is aggrieved by any order passed by the authorized officer under clause (c) may, within seven days from the date of receipt of such order, prefer an appeal in writing to the Government; and the Government shall, after such inquiry as they may consider necessary, pass such orders on the appeal as they may think fit. On such appeal being preferred, the Government may order stay of further proceedings in the matter pending decision on the appeal.

(e) (i) Every notice given by the landlord under clause (a) shall, in so far as it relates to any building other than the one chosen by him for his own occupation, be deemed to be a notice under sub-section (1).

(ii) If, in the case of a building governed by clause (b), the notice . . . specifies that the building is required for the purposes mentioned in sub-clause (i) of that

30th April 1960]

clause, the provisions of sub-section (3) shall apply as if the notice had been given by the landlord under sub-section (1) immediately after the lapse of a period of seven days from the date of receipt by the landlord of the order passed by the authorized officer, or, if an appeal has been preferred to the Government against that order within that period, as if notice had been given as aforesaid by the landlord on the date of the order passed on the appeal.

(9) (a) (i) Any officer empowered by the Government in this behalf may summarily dispossess any landlord, tenant or other person occupying any building in contravention of the provisions of this section or any landlord who fails to deliver to the Government possession of any building in accordance with the provisions of sub-section (5) and may take possession of the building including any portion thereof which may have been sub-let. The Government shall be deemed to be the tenant of such building with effect from the date of taking such possession.

(ii) Any such officer as is referred to in sub-clause (i) may summarily disposes any officer, local authority or public institution continuing to occupy, or failing to deliver possession of, any building in respect of which the Government shall be deemed to be the tenant by virtue of this section, after the termination of his or its licence to occupy such building and take possession of the building including any portion thereof which may have been sub-let:

Provided that in cases where any landlord has been refused permission for the occupation of a building under clause (c) of sub-section (8), not less than one week's notice shall be given before action is taken under this sub-section.

Explanation.—The provisions of this clause shall apply also to cases which arose before the date of the commencement of this Act.

(b) If free access to the building is not afforded to the officer empowered under clause (a), he may, after giving reasonable warning and facility to withdraw to any woman not appearing in public according to the customs of the country, remove or open any lock or bolt or break open any door or do any other act necessary for effecting such dispossession.

(c) Any landlord, tenant or other person or any officer, local authority or public institution, liable to be summarily dispossessed under clause (a), shall pay to the Government—

(i) the fair rent payable for the building under the provisions of this Act for the period of his or its occupation or

[30th April 1960]

possession thereof as described in that clause, whether such period was before or after the date of the commencement of this Act; and

(ii) the expenses, if any, incurred by the Government in effecting such summary dispossession, as determined by them (which determination shall be final).

(10) Nothing contained in this section shall apply—

(a) to a building the monthly rent of which does not exceed twenty-five rupees ; or

(b) to a building, a part only of which is occupied by the full owner and the whole or any portion of the remaining part of the building is let to any tenant; or

(c) to any building or buildings in the same city, town or village, owned by any company, association or firm, whether incorporated or not, and *bona fide* intended solely for the occupation of its officers, servants or agents.

Explanation.—In clause (b), “ full owner ” means a person entitled to the absolute proprietorship of the building.

4. *Fixation of fair rent.*—(1) The Controller shall, on application by the tenant or the landlord of a building and after holding such inquiry as the Controller thinks fit fix the fair rent for such building in accordance with the principles set out in sub-section (2) and such other principles as may be prescribed.

(2) (a) The fair rent for any building shall be at six per cent gross return per annum on the total cost of such building.

(b) The total cost referred to in clause (a) shall consist of—

(i) the cost of the construction as calculated according to such rates for such classes of buildings as may be prescribed less the depreciation at such rates as may be prescribed;

(ii) the market value of that portion of the site on which the building is constructed;

and shall include such allowances as may be made for considerations of locality in which the building is situated, features of architectural interest, accessibility to market, dispensary or hospital, nearness to the railway station or educational institution and such other amenities as may be prescribed :

Provided that such allowances shall not exceed ten per cent of the cost of construction as calculated in the manner specified in sub-clause (i).

30th April 1960]

5. Increase in fair rent in what cases admissible.—

(1) When the fair rent of a building has been fixed under this Act, no further increase in such fair rent shall be permissible except in cases where some addition, improvement or alteration has been carried out at the landlord's expense and if the building is then in the occupation of a tenant, at his request :

Provided that the fair rent as increased under this sub-section shall not exceed the fair rent payable under this Act for a similar building in the same locality with such addition, improvement or alteration and it shall not be chargeable until such addition, improvement or alteration has been completed :

Provided further that any dispute between the landlord and the tenant in regard to any increase claimed under this sub-section shall be decided by the Controller.

(2) Where, after the fair rent of a building has been fixed under this Act, there is a decrease or diminution in the accommodation or amenities provided, the tenant may claim a reduction in the fair rent as so fixed :

Provided that any dispute between the landlord and the tenant in regard to any reduction so claimed shall be decided by the Controller.

6. Increase over rent in certain cases.—(1) Where the amount of the taxes and cesses payable (including any new tax or cess which has become payable) by the landlord in respect of any building to a local authority for any half-year commencing on the 1st April 1950, or on any later date exceeds the amount of the taxes and cesses payable in respect thereof to the same or any other local authority for the half-year ending on the 30th day of September 1946, or for the first complete half-year after the date on which the building was first let, whichever is later, the landlord shall be entitled to claim such excess from the tenant in addition to the rent payable for the building under this Act :

Provided that such excess shall not be recoverable in so far as it has resulted from an increase of rent in respect of the building.

(2) Any dispute between the landlord and the tenant in regard to any increase claimed under sub-section (1) shall be decided by the Controller.

7. Landlord not to claim or receive anything in excess of fair rent or agreed rent.—(1) Where the Controller has fixed the fair rent of a building—

(a) the landlord shall not claim, receive or stipulate for the payment of (i) any premium or other like sum in addition to such fair rent, or (ii) save as provided in section 5 or section 6, anything in excess of such fair rent :

[30th April 1960]

Provided that the landlord may **receive**, or stipulate for the payment of, an amount not exceeding one month's rent, by way of advance;

(b) save as provided in clause (a), any premium or other like sum or any rent paid in addition to, or in excess of, such fair rent, whether before or after the date of the commencement of this Act, in consideration of the grant, continuance or renewal of the tenancy of the building after the date of such commencement, shall be refunded by the landlord to the person by whom it was paid or at the option of such person, shall be otherwise adjusted by the landlord :

Provided that where before the fixation of the fair rent, rent has been paid in excess thereof, the refund or adjustment shall be limited to the amount paid in excess for the period commencing on the date of application by the tenant or landlord under sub-section (1) of section 4 and ending with the date of such fixation.

(2) Where the fair rent of a building has not been so fixed—

(a) the landlord shall not claim, receive or stipulate for the payment of, any premium or other like sum in addition to the agreed rent :

Provided that the landlord may **receive**, or stipulate for the payment of, an amount not exceeding one month's rent, by way of advance;

(b) save as provided in clause (a), any sum paid in excess of the agreed rent, whether before or after the date of the commencement of this Act, in consideration of the grant, continuance or renewal of the tenancy of the building after the date of such commencement, shall be refunded by the landlord to the person by whom it was paid or, at the option of such person, shall be otherwise adjusted by the landlord.

(3) Any stipulation in contravention of sub-section (1) or sub-section (2) shall be null and void.

8. Right of tenant paying rent or advance to receipt.—

(1) Every tenant who makes a payment on account of rent or advance shall be entitled to obtain a receipt in the prescribed form for the amount paid duly signed by the landlord or his authorized agent.

(2) Where a landlord refuses to accept, or evades the receipt of, any rent lawfully payable to him by a tenant in respect of any building, the tenant may, by notice in writing, require the landlord to specify within ten days from the date of receipt of the notice by him, a bank into which the rent may be deposited by the tenant to the credit of the landlord :

30th April 1960]

Provided that such bank shall be one situated in the city, town or village in which the building is situated or if there is no such bank in such city, town or village, within three miles of the limits thereof.

Explanation.—It shall be open to the landlord to specify from time to time by a written notice to the tenant and subject to the proviso aforesaid, a bank different from the one already specified by him under this sub-section.

(3) If the landlord specifies a bank as aforesaid, the tenant shall deposit the rent in the bank and shall continue to deposit in it any rent which may subsequently become due in respect of the building.

(4) If the landlord does not specify a bank as aforesaid, the tenant shall remit the rent to the landlord by money order, after deducting the money order commission.

(5) If the landlord refuses to receive the rent remitted by money order under sub-section (4), the tenant may deposit the rent before the Controller and continue to deposit with him any rent which may subsequently become due in respect of the building.

9. Right of tenant to deposit rent in certain cases.—

(1) Where the address of the landlord or his authorized agent is not known to the tenant, he may deposit the rent lawfully payable to the landlord in respect of the building, before the Controller in such manner as may be prescribed, and continue to deposit any rent which may subsequently become due in respect of the building, before the Controller and in the same manner until the address of the landlord or his authorized agent becomes known to the tenant.

(2) The amount deposited under sub-section (3) or under sub-section (5) of section 8, or under sub-section (1) of this section may, subject to such conditions as may be prescribed, be withdrawn by the person held by the Controller to be entitled to the amount on application made by such person to the Controller in that behalf.

(3) Where any *bona fide* doubt or dispute arises as to the person who is entitled to receive the rent for any building, the tenant may deposit such rent before such authority and in such manner as may be prescribed and shall report to the Controller the circumstances under which such deposit was made by him, and may continue to deposit any rent which may subsequently become due in respect of the building before the same authority and in the same manner until the

[30th April 1960]

doubt is removed or the dispute is settled by the decision of a competent Court or by a settlement between the parties or until the Controller makes an order under clause (b) of sub-section (4), as the case may be.

(4) (a) The Controller to whom a report is made under sub-section (3) shall, if satisfied that a *bona fide* doubt or dispute exists in the matter, direct that, pending removal of the doubt or settlement of the dispute as aforesaid, the deposit be held by the authority concerned.

(b) If the Controller is not so satisfied, he shall forthwith order payment of the amount deposited to the landlord.

(5) Where the Controller passes an order under clause (a) of sub-section (4), any amount deposited under sub-section (3) may be withdrawn only by the person who is declared by a competent Court to be entitled thereto, or in case the doubt or dispute is removed by a settlement between the parties, only by the person who is held by the Controller to be entitled to the amount or amounts in accordance with such settlement.

10. Eviction of tenants.—(1) A tenant shall not be evicted whether in execution of a decree or otherwise except in accordance with the provisions of this section or sections 14 to 16 :

Provided that nothing contained in the said sections shall apply to a tenant whose landlord is the Government :

Provided further that where the tenant denies the title of the landlord or claims right of permanent tenancy, the Controller shall decide whether the denial or claim is *bona fide* and if he records a finding to that effect, the landlord shall be entitled to sue for eviction of the tenant in a Civil Court and the Court may pass a decree for eviction on any of the grounds mentioned in the said sections, notwithstanding that the Court finds that such denial does not involve forfeiture of the lease or that the claim is unfounded.

(2) A landlord who seeks to evict his tenant shall apply to the Controller for a direction in that behalf. If the Controller, after giving the tenant a reasonable opportunity of showing cause against the application, is satisfied—

(i) that the tenant has not paid or tendered the rent due by him in respect of the building, within fifteen days after the expiry of the time fixed in the agreement of tenancy with his landlord or in the absence of any such agreement, by the last day of the month next following that for which the rent is payable, or

30th April 1960]

(ii) that the tenant has after the 23rd October 1945 without the written consent of the landlord—

(a) transferred his right under the lease or sub-let the entire building or any portion thereof, if the lease does not confer on him any right to do so, or

(b) used the building for a purpose other than that for which it was leased, or

(iii) that the tenant has committed or caused to be committed such acts of waste as are likely to impair materially the value or utility of the building; or

(iv) that the tenant has been convicted under any law for the time being in force of an offence of using the building or allowing the building to be used for immoral or illegal purposes; or

(v) that the tenant has been guilty of such acts and conduct which are a nuisance to the occupiers of other portions in the same building or of buildings in the neighbourhood; or

(vi) that where the building is situated in a place other than a hill-station, the tenant has ceased to occupy the building for a continuous period of four months without reasonable cause; or

(vii) that the tenant has denied the title of the landlord or claimed a right of permanent tenancy and that such denial or claim was not *bona fide*.

the Controller shall make an order directing the tenant to put the landlord in possession of the building and if the Controller is not so satisfied, he shall make an order rejecting the application :

Provided that in any case falling under clause (i) if the Controller is satisfied that the tenant's default to pay or tender rent was not wilful, he may, notwithstanding anything contained in section 11, give the tenant a reasonable time, not exceeding fifteen days, to pay or tender the rent due by him to the landlord up to the date of such payment or tender and on such payment or tender, the application shall be rejected.

(3) (a) A landlord may, subject to the provisions of clause (d), apply to the Controller for an order directing the tenant to put the landlord in possession of the building . . . if the landlord requires it for his own occupation or for the occupation of his son and if he or his son is not occupying a . . . building of his own in the city, town or village concerned :

[30th April 1960]

Provided that a person who becomes a landlord after the commencement of the tenancy by an instrument *inter vivos* shall not be entitled to apply under this clause before the expiry of three months from the date on which the instrument was registered :

Provided further that where a landlord has obtained possession of a building under this clause, he shall not be entitled to apply again under this clause.

(b) Where the landlord of a building, . . . is a religious, charitable, educational, or other public institution, it may, if the building is required for the purposes of the institution, apply to the Controller, subject to the provisions of clause (d), for an order directing the tenant to put the institution in possession of the building.

(c) A landlord who is occupying only a part of a building . . . may, notwithstanding anything contained in clause (a), apply to the Controller for an order directing any tenant occupying the whole or any portion of the remaining part of the building to put the landlord in possession thereof, if he requires additional accommodation for residential purposes. . .

(d) Where the tenancy is for a specified period agreed upon between the landlord and the tenant, the landlord shall not be entitled to apply under this sub-section before the expiry of such period.

(e) The Controller shall, if he is satisfied that the claim of the landlord is *bona fide*, make an order directing the tenant to put the landlord in possession of the building on such date as may be specified by the Controller and if the Controller is not so satisfied, he shall make an order rejecting the application :

Provided that, in the case of an application under clause (c), the Controller shall reject the application if he is satisfied that the hardship which may be caused to the tenant by granting it will outweigh the advantage to the landlord :

Provided further that the Controller may give the tenant a reasonable time for putting the landlord in possession of the building and may extend such time so as not to exceed three months in the aggregate.

(4) No order for eviction shall be passed under sub-section (3) against any tenant who is engaged in any employment or class of employment notified by the Government as an essential service for the purposes of this sub-section, unless the landlord is himself engaged in any employment or class of employment which has been so notified.

30th April 1960]

(5) (a) Where a landlord who has obtained possession of a building in pursuance of an order under sub-section (3) does not himself occupy it within one month of the date of obtaining possession or having so occupied it, vacates it without reasonable cause within six months of such date the tenant who has been evicted may apply to the Controller for an order directing that he shall be restored to possession of the building and the Controller shall make an order accordingly, notwithstanding anything contained in section 3.

(b) Where a tenant who is entitled to apply for possession under clause (a) fails to do so within one month from the date on which the right to make the application accrued to him, the Government or the authorized officer shall have power, if the building is required . . . for occupation by any of the officers specified in sub-section (3) of section 3 to give intimation to the landlord that the building is so required and thereupon the provisions of sub-sections (5) and (9) of section 3 shall apply to the building :

Provided that this clause shall not apply to a . . . building the monthly rent of which does not exceed twenty-five rupees . . .

(6) Where the Controller is satisfied that any application made by a landlord for the eviction of a tenant is frivolous or vexatious, the Controller may direct that compensation not exceeding fifty rupees be paid by such landlord to the tenant.

(7) Where an application under sub-section (2) or sub-section (3) for evicting a tenant has been rejected by the Controller, the tenancy shall, subject to the provisions of this Act, be deemed to continue on the same terms and conditions as before and shall not be terminable by the landlord except on any of the grounds mentioned in sub-section (2) or sub-section (3) :

Provided that nothing in this sub-section shall be deemed to prevent a landlord who has made an application for evicting a tenant on any of the grounds mentioned in sub-section (2) or sub-section (3) from applying again, when the previous application is pending, to the Controller for evicting the tenant on any of the other grounds mentioned in sub-section (2) or sub-section (3).

(8) Notwithstanding anything contained in this section, no person who is receiving or is entitled to receive the rent of a building merely as an agent of the landlord shall, except with the previous written consent of the landlord, be entitled to apply for the eviction of a tenant.

[30th April 1960]

11. Payment of deposit of rent during the pendency of proceedings for eviction.—(1) No tenant against whom an application for eviction has been made by a landlord under section 10, shall be entitled to contest the application before the Controller under that section, or to prefer any appeal under section 23 against any order made by the Controller on the application, unless he has paid or pays to the landlord, or deposits with the Controller or the appellate authority, as the case may be, all arrears or rent due in respect of the building up to the date of payment or deposit, and continues to pay or to deposit any rent which may subsequently become due in respect of the building until the termination of the proceedings before the Controller or the appellate authority, as the case may be.

(2) The deposit of rent under sub-section (1) shall be made within the time and in the manner prescribed.

(3) Where there is any dispute as to the amount of rent to be paid or deposited under sub-section (1), the Controller or the appellate authority, as the case may be, shall, on application made to him either by the tenant or by the landlord, and after making such inquiry as he deems necessary, determine summarily the rent to be so paid or deposited.

(4) If any tenant fails to pay or to deposit the rent as aforesaid, the Controller or the appellate authority, as the case may be, shall, unless the tenant shows sufficient cause to the contrary, stop all further proceedings and make an order directing the tenant to put the landlord in possession of the building.

(5) The amount deposited under sub-section (1) may, subject to such conditions as may be prescribed, be withdrawn by the landlord on application made by him in that behalf to the Controller or the appellate authority, as the case may be.

12. Recovery of possession by landlord for repairs or for re-construction of building in respect of which the Government shall be deemed to be the tenant.—(1) Notwithstanding anything contained in this Act, on an application made by a landlord of a building in respect of which the Government shall be deemed to be the tenant, the authorized officer shall, if he is satisfied—

(a) that the building . . . is *bona fide* required by the landlord for carrying out repairs which cannot be carried out without the building being vacated; or

(b) that the building . . . is *bona fide* required by the landlord for the immediate purpose of demolishing it and such demolition is to be made for the purpose of erecting

30th April 1960]

a new building on the site of the building sought to be demolished, pass an order directing the allottee to deliver possession of the building to the landlord before a specified date.

(2) An order passed by the authorized officer under sub-section (1) directing the allottee to deliver possession of the building to the landlord shall be subject to such conditions and restrictions as may be prescribed.

(3) No order directing the allottee to deliver possession of the building shall be passed by the authorized officer under sub-section (1)—

(a) on the ground specified in clause (a) of sub-section (1), unless the landlord gives an undertaking that the building shall, on completion of the repairs, be offered to the authorized officer before the expiry of three months from the date of recovery of possession by the landlord or before the expiry of such further period as the authorized officer may, for reasons to be recorded in writing, allow, for re-allotment to any person named by the authorized officer; or

(b) on the ground specified in clause (b) of sub-section (1), unless the landlord gives an undertaking that the work of demolishing any material portion of the building shall be substantially commenced by him not later than one month, and shall be completed before the expiry of three months from the date he recovers possession of the entire building or before the expiry of such further period . . . as the authorized officer may, for reasons to be recorded in writing, allow.

(4) Notwithstanding an order passed by the authorized officer under clause (a) of sub-section (1) directing the allottee to deliver possession of the building, the Government shall be deemed to continue to be the tenant, but the landlord shall not be entitled to any rent for the period commencing on the date of delivery of possession of the building by the allottee to the landlord and ending with the date on which the building is offered to the authorized officer by the landlord in pursuance of the undertaking under clause (a) of sub-section (3).

(5) Nothing contained in this section shall entitle the landlord who has recovered possession of the building for repairs . . . to convert such building into a non-residential building . . . unless such conversion is permitted by the authorized officer at the time of passing an order under clause (a) of sub-section (1).

(6) If, after the allottee has delivered possession, the landlord fails to commence the work of repairs within one month from the date of such delivery or fails to complete the

[30th April 1960]

work before the expiry of three months from the date of such delivery or before the expiry of the further period allowed under clause (a) of sub-section (3) or having completed the work fails to offer the building to the authorized officer, the authorized officer may *suo motu* or on application order the re-allotment of the building to any person named by him; and on such order being made, the landlord and any other person who may be in occupation shall put the allottee in possession of the building.

* * * * *

13. Authorized officer to give notice to landlord in certain cases.—(1) Where an order directing delivery of possession has been passed by the authorized officer under clause (b) of sub-section (1) of section 12 and the work of demolishing any material portion of the building has not been substantially commenced by the landlord within the period of one month in accordance with his undertaking under clause (b) of sub-section (3) of section 12 the authorized officer may give the landlord notice of his intention to re-allot the building to any person named by him. If within fifteen days from the date of receipt of such notice, the landlord does not offer the building to the authorized officer, the authorized officer may re-allot the building to any person named by him on the original terms and conditions and order the landlord to put such person in possession of the building.

(2) Where an order has been passed by the authorized officer on the ground specified in clause (b) of sub-section (1) of section 12 and the work of demolishing the building is complete, all the provisions of this Act shall cease to apply to the new building erected on the site of the building demolished.

* * * * *

14. Recovery of possession by landlord for repairs or for re-construction.—(1) Notwithstanding anything contained in this Act, but subject to the provisions of sections 12 and 13, on an application made by a landlord, the Controller shall, if he is satisfied—

(a) that the building is . . . *bona fide* required by the landlord for carrying out repairs which cannot be carried out without the building being vacated; or

(b) that the building is . . . *bona fide* required by the landlord for the immediate purpose of demolishing it and such demolition is to be made for the purpose of erecting a new building on the site of the building sought to be demolished,

pass an order directing the tenant to deliver possession of the building to the landlord before a specified date.

30th April 1960]

(2) No order directing the tenant to deliver possession of the building under this section shall be passed—

(a) on the ground specified in clause (a) of sub-section (1), unless the landlord gives an undertaking that the building shall, on completion of the repairs, be offered to the tenant, who delivered possession in pursuance of an order under sub-section (1) for his re-occupation before the expiry of three months from the date of recovery of possession by the landlord, or before the expiry of such further period as the Controller may, for reasons to be recorded in writing, allow; or

(b) on the ground specified in clause (b) of sub-section (1), unless the landlord gives an undertaking that the work of demolishing any material portion of the building shall be substantially commenced by him not later than one month and shall be completed before the expiry of three months from the date he recovers possession of the entire building or before the expiry of such further period as the Controller may, for reasons to be recorded in writing, allow.

(3) Nothing contained in this section shall entitle the landlord who has recovered possession of the building for repairs . . . to convert such . . . building into a non-residential building unless such conversion is permitted by the Controller at the time of passing an order under sub-section (1).

(4) Notwithstanding an order passed by the Controller under clause (a) of sub-section (1) directing the tenant to deliver possession of the building, such tenant shall be deemed to continue to be the tenant, but the landlord shall not be entitled to any rent for the period commencing on the date of delivery of possession of the building by the tenant to the landlord and ending with the date on which the building is offered to the tenant by the landlord in pursuance of the undertaking under clause (a) of sub-section (2).

(5) Nothing in this section shall entitle any landlord of a building in respect of which the Government shall be deemed to be the tenant to make any application under this section.

15. Tenant to re-occupy after repairs.—(1) Where the landlord recovers possession under clause (a) of sub-section (1) of section 14, he shall, within two months before the date on which the work of repairs is likely to be completed, give notice to the tenant of the date on which the said work will be completed. Within fifteen days from the date of receipt of such notice, the tenant shall intimate to the landlord his acceptance of the building offered for his re-occupation and if the tenant gives such intimation, the landlord shall within thirty days from the date of completion of the work of repairs put the tenant in possession of the building on the original terms and conditions. If the tenant fails to give such intimation, his right to re-occupy the building shall terminate.

[30th April 1960]

(2) If after the tenant has delivered possession, the landlord fails to commence the work of repairs within one month from the date of such delivery, or fails to complete the work before the expiry of three months from the date of such delivery, or before the expiry of the further period allowed under clause (a) of sub-section (2) of section 14 or having completed the work fails to put the tenant in possession of the building in accordance with the provisions of sub-section (1), the Controller may, on the application of the tenant made within thirty days from the date of such failure, order the landlord to put the tenant in possession of the building on the original terms and conditions; and on such order being made, the landlord and any person who may be in occupation shall put the tenant in possession of the building.

* * * *

16. Tenant to occupy if the building is not demolished.—

(1) Where an order directing delivery of possession has been passed by the Controller under clause (b) of sub-section (1) of section 14 and the work of demolishing any material portion of the building has not been substantially commenced by the landlord within the period . . . of one month in accordance with his undertaking under clause (b) of sub-section (2) of section 14 the tenant may give the landlord notice of his intention to occupy the building the possession of which he delivered. If within fifteen days from the date of receipt of such notice, the landlord does not put him in possession of the building on the original terms and conditions, the tenant may make an application to the Controller within eight weeks of the date on which he put the landlord in possession of the building.

* * * *

The Controller shall order the landlord to put the tenant in possession of the building on the original terms and conditions.

* * * *

(2) Where an order has been passed by the Controller on the ground specified in clause (b) of sub-section (1) of section 14 and the work of demolishing the building is complete, all the provisions of this Act shall cease to apply to the new building erected on the site of the building demolished.

* * * *

17. Landlord not to interfere with amenities enjoyed by tenant.—(1) No landlord shall, without just or sufficient cause cut off or withhold any of the amenities enjoyed by the tenant or be in any way responsible for the amenities being cut off or withheld.

(2) A tenant in occupation of a building may, if the landlord has contravened the provisions of this section, make an application to the Controller complaining of such contravention.

30th April 1960]

(3) If the tenant satisfies the Controller that the amenities were cut off or withheld or caused to be cut off or withheld with a view to compel him to vacate the building or to pay an enhanced rent or to harass him, the Controller may pass an interim order, directing the landlord to restore the amenities immediately, pending the inquiry referred to in sub-section (4).

Explanation.—An interim order may be passed under this sub-section without giving notice to the landlord.

(4) If the Controller on inquiry finds that the tenant has been in enjoyment of the amenities and that they were cut off or withheld by the landlord without just or sufficient cause or if the landlord was in any way responsible for the amenities being cut off or withheld, he shall make an order directing the landlord to restore such amenities.

(5) The Controller may, in his discretion, direct that compensation not exceeding fifty rupees—

(a) be paid to the landlord by the tenant, if the application under sub-section (2) was made frivolously or vexatiously;

(b) be paid to the tenant by the landlord, if the landlord had cut off or withheld the amenities or was in any way responsible for the amenities being cut off or withheld frivolously or vexatiously.

Explanation.—In this section, the expression 'amenities' includes supply of water, electricity, passages, staircases, light, lavatories, lifts and conservancy or sanitary services.

18. Execution of orders.—Every order made under section 10, 12, 13, 14, 15, 16 and 17 and every order passed on appeal under section 23 or on revision under section 25 shall be executed—

(i) in the City of Madras, by the Madras City Civil Court;

(ii) elsewhere—

(a) by the District Munsif or if there are more than one District Munsif, by the Principal District Munsif having original jurisdiction over the area in which the building is situated; or

(b) if there is no such District Munsif, by the Subordinate Judge, or if there are more than one Subordinate Judge, by the Principal Subordinate Judge having original jurisdiction over the area aforesaid; or

(c) if there is no such District Munsif or Subordinate Judge, by the District Judge having jurisdiction; as if it were a decree passed by the said Court or by him :

[30th April 1960]

Provided that an order passed in execution under this section shall not be subject to an appeal, but shall be subject to revision under section 25.

19. Decisions which have become final not to be reopened.—The Controller shall summarily reject any application under sub-section (2) or under sub-section (3) of section 10 or under sections 14, 15 or 16 which raises between the same parties or between parties under whom they or any of them claim, substantially the same issues as have been finally decided or as purport to have been finally decided, in a former proceeding—

(i) under this Act, or

(ii) under any other law from time to time in force before the date of the commencement of this Act and relating to matters dealt with in this Act.

20. Orders of Controller to be pronounced in open Court.—Every order passed by a Controller under this Act shall be pronounced in open Court on the day on which the case is finally heard, or on some future day of which due notice shall be given to the parties.

21. Conversion into non-residential buildings.—No residential building shall be converted into a non-residential building except with the permission in writing of the Controller.

22. Failure by landlord to make necessary repairs.—If a landlord fails to make necessary repairs to the building within a reasonable time after notice is given—

(a) by the authorized officer in the case of a building in respect of which the Government shall be deemed to be the tenant under sub-section (5) of section 3;

(b) by the tenant in the case of any other building;

the authorized officer aforesaid may, in the case referred to in clause (a), make such repairs or have them made by the allottee and deduct the cost thereof from the rent payable for the building or ask the allottee to make such a deduction from the rent payable; and the Controller may, in the case referred to in clause (b), direct, on application by the tenant, that such repairs may be made by the tenant and that the cost thereof may be deducted by the tenant from the rent payable for the building :

Provided that the cost of repairs, and the deduction thereof which the authorized officer or the Controller, as the case may be, may authorize shall *not* exceed in any one year one-twelfth of the rent payable in respect of the building for that year.

30th April 1960]

23. Appeal.—(1) (a) The Government may, by general or special order notified in the *Fort St. George Gazette*, confer on such officers and authorities as they think fit, the powers of appellate authorities for the purpose of this Act, in such areas and in such classes of cases as may be specified in the order.

(b) Any person aggrieved by an order passed by the Controller may, within fifteen days from the date of such order, prefer an appeal in writing to the appellate authority having jurisdiction.

In computing the fifteen days aforesaid, the time taken to obtain a certified copy of the order appealed against shall be excluded.

(2) On such appeal being preferred, the appellate authority may order stay of further proceedings in the matter pending decision on the appeal.

(3) The appellate authority shall call for the records of the case from the Controller and after giving the parties an opportunity of being heard and, if necessary, after making such further inquiry as he thinks fit either personally or through the Controller, shall decide the appeal.

Explanation.—The appellate authority may, while confirming the order of eviction passed by the Controller, grant an extension of time to the tenant for putting the landlord in possession of the building.

(4) The decision of the appellate authority, and subject to such decision, an order of the Controller shall be final and shall not be liable to be called in question in any Court of Law, except as provided in section 25.

24. Costs.—Subject to such conditions and limitations, if any, as may be prescribed, the costs of and incident to all proceedings before the Controller or the appellate authority referred to in section 23, shall be in the discretion of the Controller or the appellate authority, who shall have full power to determine by whom or out of what property and to what extent such costs are to be paid, and to give all necessary directions for the purpose.

Explanation.—The appellate authority may set aside or vary any order passed by the Controller in regard to the costs of and incident to the proceedings before him.

25. Revision.—(1) (a) The High Court, in the case of—
(i) the Madras City Civil Court empowered by clause (1) of section 18, or
(ii) an appellate authority empowered under section 23 and functioning in the presidency-town, or
(iii) the District Judge empowered by sub-clause (c) of clause (ii) of section 18; and

[30th April 1960]

(b) the District Court concerned, in the case of—

(i) an authority empowered by sub-clause (a) or sub-clause (b) of clause (ii) of section 18, or

(ii) an appellate authority empowered under section 23 and functioning in a district,

may, at any time, on the application of any aggrieved party, call for and examine the records relating to any order passed or proceeding taken under this Act by such authority for the purpose of satisfying itself as to the legality, regularity or propriety of such order or proceeding, and may pass such order in reference thereto as it thinks fit.

(2) The costs of and incident to all proceedings before the High Court or District Court under sub-section (1) shall be in its discretion.

26. Order under the Act to be binding on sub-tenants.—

Any order for the eviction of a tenant passed under this Act shall be binding on all sub-tenants who were made parties in the application for eviction but any person who became a sub-tenant after the date of the application for eviction shall be bound by the order of eviction and be evicted as if he were a party to the proceedings, provided that such order was not obtained by fraud or collusion.

27. Proceedings by or against legal representatives.—

(1) Any application made, appeal preferred, or proceeding taken, under this Act by or against any person, may, in the event of his death, be continued by or against his legal representatives.

(2) Where any application, appeal or other proceeding could have been made, preferred or taken, under this Act by or against any person, such application, appeal or other proceeding may, in the event of his death, be made, preferred or taken by or against his legal representatives.

28. Summons to witnesses.—Subject to such conditions and limitations as may be prescribed, the Controller may, in his discretion, issue summons to witnesses requiring them to attend in person to give evidence or to produce documents in their custody in connexion with any proceedings before him.

29. Exemptions.—Notwithstanding anything contained in this Act, the Government may, subject to such conditions as they deem fit, by notification, exempt any building or class of buildings from all or any of the provisions of this Act.

30. Act not to apply to certain buildings.—Nothing contained in this Act shall apply to any building—

(i) the construction of which was, after the date of the commencement of this Act, completed and notified to the local authority concerned;

30th April 1960]

(ii) the rental value of which, on the date of the commencement of this Act, as entered in the property-tax assessment book of the municipal council, district board, panchayat or panchayat union council or the Corporation of Madras, as the case may be, exceeds two hundred and fifty rupees.

31. Executive Authorities of local bodies to furnish certified extracts from property-tax assessment books.—The Executive Authority of a municipal council or district board or panchayat or panchayat union council or the Revenue Officer of the Corporation of Madras, shall, on application made in this behalf and on payment of such fee as may, from time to time, be fixed by the Government by notification, grant to the applicant a certified copy of the extract from the property-tax assessment book of the municipal council, district board, panchayat or panchayat union council or the Corporation of Madras, as the case may be, showing the rental value of the building or buildings in respect of which application has been made, relating to the period specified in the application. Such certified copy shall be received as evidence of the facts stated therein, in proceedings under this Act.

32. Landlord and tenant to furnish particulars.—Every landlord and every tenant of a building shall be bound to furnish to the Controller or any person authorized by him in that behalf, such particulars in respect of the building as may be prescribed.

33. Penalties.—(1) If any person contravenes any of the provisions of sub-sections (1), (2), (4), (5) and (8) of section 3, sub-sections (1) (a) and 2 (a) of section 7, sub-section (1) of section 17, section 21 or section 32 or any order under sub-section (3) of section 10, or sub-section . . . (3) of section 17 or any of the conditions in the notifications issued under section 29, he shall be punishable with . . . fine which may extend to one thousand rupees . . .

(2) (a) Any landlord who after the allottee has vacated the building before the date specified in the order passed under clause (a) of sub-section (1) of section 12, fails to commence the work of repairs without reasonable excuse and any landlord or other person in occupation of the building who fails to comply with the order passed by the authorized officer under sub-section (6) of section 12 shall, on conviction, be punishable with fine which may extend to one thousand rupees.

(b) Any landlord who recovers possession on the ground specified in clause (b) of sub-section (1) of section 12 and fails to carry out the undertaking referred to in clause (b) of sub-section (3) of the said section without any reasonable excuse or fails to comply with the conditions and restrictions

[30th April 1960]

prescribed under sub-section (2) of the said section or fails to comply with the order of the authorized officer under sub-section (1) of section 13 shall, on conviction, be punishable with fine which may extend to one thousand rupees.

(3) (a) Any landlord who after the tenant has vacated the building before the date specified in the order passed under clause (a) of sub-section (1) of section 14 fails to commence the work of repairs without reasonable excuse and any landlord or other person in occupation of the building who fails to comply with the order passed by the Controller under sub-section (2) of section 15 shall, on conviction, be punishable with fine which may extend to one thousand rupees.

(b) Any landlord who recovers possession on the ground specified in clause (b) of sub-section (1) of section 14 and fails to carry out the undertaking referred to in clause (b) of sub-section (2) of the said section without any reasonable excuse or fails to comply with the order of the Controller under sub-section (1) of section 16, shall, on conviction, be punishable with fine which may extend to one thousand rupees.

34. Power to make rules.—(1) The Government may, by notification, make rules to carry out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) all matters expressly required or allowed by this Act to be prescribed;

(b) the procedure to be followed by Controllers and appellate authorities in the performance of their functions under this Act;

(c) the manner in which notices and orders under this Act shall be given or served;

(d) setting aside ex-parte orders passed under this Act;

(e) applications for making legal representatives of deceased persons, parties to proceedings under this Act and the time within which such applications shall be preferred;

(f) the procedure to be followed in taking possession of a building and in disposing of the articles found therein at the time of taking possession; and

(g) the fee leviable in respect of applications and appeals under this Act.

(3) In making a rule under this section, the Government may provide that a person who contravenes any of the provisions thereof shall be punishable with fine which may extend to one thousand rupees.

30th April 1960]

(4) All rules made and all notifications issued under this Act shall, as soon as possible after they are made or issued, be placed on the table of both the Houses of the Legislature and shall be subject to such modifications by way of amendment or repeal as the Legislature may make either in the same session or in the next session.

35. *Repeals and Savings.*—(1) The Madras Buildings (Lease and Rent Control) Act, 1949 (Madras Act XXV of 1949) (hereinafter in this section referred to as the said Act) is hereby repealed.

(2) Notwithstanding the repeal of the said Act by sub-section (1)—

(a) All rules made, or deemed to have been made, notifications issued or deemed to have been issued, orders passed or deemed to have been passed, decisions made or deemed to have been made, proceedings or action taken or deemed to have been taken, and things done or deemed to have been done under any provision of the said Act, shall be deemed to have been made, issued, passed, taken or done by the appropriate authority under the corresponding provision of this Act and shall have effect accordingly.

(b) Any liability or penalty incurred or deemed to have been incurred, any punishment awarded or deemed to have been awarded, any application made or deemed to have been made and any prosecution commenced or deemed to have been commenced under any provision of the said Act shall be deemed to have been incurred, awarded, made or commenced under the corresponding provision of this Act.

(3) Notwithstanding anything contained in sub-section (2) of this section, or in section 5, the Controller shall, on application by the tenant or the landlord of a building for which fair-rent has been fixed under the said Act, fix the fair-rent for such building in accordance with the provisions of section 4 of this Act.

36. *Savings in respect of non-residential building.*—

(1) Notwithstanding anything contained in this Act, if, on the date of the commencement of this Act, any non-residential building—

(a) is used for the purpose of the State or Central Government, or of any local authority or of any public institution under the control of such Government, or

(b) is used for an educational purpose, the provisions of this Act shall, except as provided in sub-section (2), as far as may be, apply in relation to the non-residential building aforesaid, as they apply in relation to the building as defined in this Act.

[30th April 1960]

(2) The rent for such non-residential building as is referred to in sub-section (1) shall be the rent which was payable for that building immediately before the date of the commencement of this Act.

37. Saving on expiration of Act.—The expiration of this Act shall not—

(a) render recoverable any sum which during the continuance thereof was irrecoverable or affect the right of a tenant to recover any sum which during the continuance of this Act was recoverable by him thereunder;

(b) affect any liability incurred under this Act or any punishment incurred in respect of any contravention of this Act or any rule or order made thereunder;

(c) affect any investigation or legal proceeding in respect of any such liability or punishment as aforesaid, and any such investigation or legal proceeding may be instituted, continued or enforced and any such punishment may be imposed, as if this Act had not expired.

38. Indemnity.—(1) No suit, prosecution or other legal proceeding shall lie in any Court against any officer or servant of the Government or any person acting under his direction or aiding or assisting him—

(a) for, or on account of, or in respect of, any sentence passed or deemed to have been passed, any decision given or deemed to have been given, or any act ordered or deemed to have been ordered or done or deemed to have been done by him, in exercise of any jurisdiction or power purporting to have been conferred on him by or under this Act;

or

(b) affect any liability incurred under this Act or any given by any Court or other authority in exercise of any such jurisdiction or power as aforesaid.

(2) No suit or other legal proceeding shall lie against the Government for, or on account of, or in respect of, any act, matter or thing whatsoever, purporting to have been done in pursuance of or under this Act.

39. Repeal of corresponding law in the transferred territory.—(1) Any law corresponding to this Act in force in the transferred territory immediately before the date of the commencement of this Act (hereinafter in this section referred to as the corresponding law) shall stand repealed on the date of such commencement.

(2) The repeal by sub-section (1) of the corresponding law shall not affect—

(a) the previous operation of the corresponding law or anything done or duly suffered thereunder; or

30th April 1960]

(b) any penalty, forfeiture or punishment incurred in respect of any offence committed against the corresponding law; or

(c) any investigation, legal proceeding or remedy in respect of any such penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

(3) Subject to the provisions of sub-section (2), anything done or any action taken, including any appointment or delegation made, notification, order, instruction or direction issued, rule, regulation or form framed or registration effected, under the corresponding law shall be deemed to have been done or taken under this Act and shall continue in force accordingly, unless and until superseded by anything done or any action taken under this Act.

(4) For the purpose of facilitating the application of this Act in the transferred territory, any Court or other authority may construe this Act with such alterations not affecting the substance as may be necessary or proper to adapt it to the matter before the Court or other authority.

(5) Any reference in any law which continues to be in force in the transferred territory after the date of the commencement of this Act to the corresponding law shall, in relation to that territory, be construed as a reference to this Act.

Explanation.—For the purpose of this section, the expression “transferred territory” shall mean the Kanyakumari district and the Shencottah taluk of the Tirunelveli district.

40. Power to remove difficulties.—(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, by order, do anything which appears to them necessary for the purpose of removing the difficulty.

(2) All orders made under sub-section (1) shall, as soon as possible after they are made, be placed on the table of both the Houses of the Legislature and shall be subject to such modifications by way of amendment or repeal as the Legislature may make either in the same session or in the next session.

T. HANUMANTHAPPA,
Secretary.

[30th April 1960]

DISSENTING MINUTES.

I

The existing Madras Buildings (Lease and Rent Control) Act was enacted for regulating the letting of residential and non-residential buildings and for controlling the rents of such buildings and also for preventing unreasonable eviction of tenants. I feel that the conditions have not since improved in any way warranting the exemption of non-residential buildings and also residential buildings fetching a rent of above Rs. 250 per mensem from the purview of the proposed legislation. My own view is that the controls should be continued also in respect of all residential and non-residential buildings fetching a rent of Rs. 250 and above and it should be extended to all buildings constructed and let out from time to time. In the matter of allotment too, I feel that it should not be limited to applicants belonging only to certain categories of services.

I may in this connection reiterate that the problem of accommodation could only be solved by providing more facilities for co-operatives for the construction of houses and also by providing more loan facilities for middle income, low income and Industrial Housing Schemes.

The Bill as amended by this Joint Select Committee would give rise to innumerable difficulties like the coming into existence of anti-social activities like the stipulation and acceptance of Pugree for procuring accommodation. Further the Bill as amended provide for allotment of houses only for Government servants coming on transfer and to those to whom the Government are under obligation to provide accommodation. This would cause hardship even to the Government servants who have been allotted houses already, since they cannot even when their families are enlarged, apply for suitable alternate accommodation. Other difficulties which would arise consequent on the exemption of non-residential buildings from the purview of the Act, are; the unhealthy competition from business community—for accommodation, the dislocation of business, the possibility of good number of employees being thrown out of employment and a general upward trend in the prices of commodities, as the businessmen have to make margin for all the excess expenditure they have to incur on Pugree, etc.

18th April 1960.

N. K. PALANISAMI.

II

Clause 29 should be deleted since, in clauses 12, 13, 14, 15 and 16, sufficient power is given to Government. No building or class of buildings should be exempted under clause 29.

Clause 30 should be deleted as it seems to favour new landlords. No tenant who occupies the house constructed after the coming into force of the intended Act is protected by the provisions of the Act.

(SRIMATHI) SATHIAVANIMUTHU.

18th April 1960.

30th April 1960]

III

Even after some changes have been made in the draft Bill as introduced, still I am dissatisfied with the Bill as it has emerged from the Select Committee.

During the discussions in the Select Committee most of the members expressed themselves as opposed to the continuance of Accommodation Control in our State. The Minister went so far as to give an assurance that the working of Accommodation Control will be reviewed at the end of one year and Accommodation Control may even be dropped, if so advised. But he has not implemented this assurance by including a provision in the Bill, that Accommodation Control will be for one year only, and power will be given to the Government to drop or extend it. This, it seems to me, would have been a very satisfactory way of implementing the assurance. But it has not been so done. Figures were given by the Government Department showing that the new cases of accommodation required for Officers were quite small in number as compared with the cases where the Officers require change of accommodation from one place to another in the City. The Minister went so far as to say that, hereafter, the Government would only consider cases when new Officers appointed require new accommodation. When that is the case Accommodation Control will really be unnecessary if the Government will, as it ought to, take steps to build houses for its own employees. The Government has been insisting upon the private sector to arrange for accommodation for the employees in that sector and they will do well to set an example to the private sector by doing so themselves in the case of their own employees.

Accommodation Control can be justified only as an emergency measure but it cannot become a permanent part of the Statute Book. The Bill itself is for a period of three years only. Especially as Accommodation Control seriously affects the right of house-owners to occupy themselves or to give it for occupation of the members of their family or to choose their own tenants, it cannot be justified except under circumstances of absolute necessity.

Unfortunately, in the Bill the powers of the Accommodation Control Officer have been still further increased as will be apparent from clauses 12 to 16 and other clauses in the Bill. Especially in cases where the landlord has two or more residential buildings in the same City, town or village the Bill causes hardship and injustice to the landlord. He should in fairness be given full liberty to decide whether he requires the building for the occupation of any member of his family or his dependents and his wishes should be consulted before the Accommodation Control Officer requires the building for any Government servants. The provisions of the Bill in this regard affect seriously the rights of the landlord. In clause 10, sub-clause (3) (a) the right of the landlord to provide residence to the members of his family is affected by restricting it to his own occupation or to the occupation of his son only. Very often the house-owner has to provide for the residence of his daughters or his sons-in-law. If such provision is not made even serious misunderstanding in the family will arise. Family affection also impels him to do so. Hence omission of the daughters in that clause is a serious hardship to the house-owner.

[30th April 1960]

I have also to refer especially to clause 3, sub-clause (ii) (b) where the Accommodation Officer is given power to remove or open any lock or bolt or break open any door or do any other act necessary for effecting dispossession of the house-owner, if free access to the building is not afforded to the Officer empowered by the Government to take possession of the building. This is a very clear case of the Officer taking the law into his own hands especially when he is the judge in his own cause, and the liberty of the citizen is jeopardized. In similar cases under the Hindu Religious Endowments Act and Money Lenders' Act, the Officer has been empowered to apply to the Magistrate for the purpose of police assistance. Such a salutary provision has not been included in the Bill.

So far as Rent Control is concerned, it has to be remembered that it was first introduced in 1941 as a war measure for a short period and has been extended only from time to time by the Legislature. Even now the Government wants that this Bill should continue only for three years. While that is the case it is well to consider whether rent regulation should not be allowed to be done by contract of parties. If at all there should be any restriction it may be only in cases of rack renting or unjust eviction. Discrimination is shown in favour of essential services, by enacting that no order for eviction shall be passed against any tenant who is engaged in any employment or class of employment notified by the Government, as an essential service—vide clause 10, sub-clause (4).

Moreover, the Bill has not tried to effectively tackle the problem of sub-tenants.

Cases are not uncommon where a tenant takes a whole house for rent and himself lives only in a small portion and sub-lets other portions to other sub-tenants without the knowledge or permission of the house-owner and thus makes a profit by the transaction. The distressing feature of large number of tenants residing in a single building practically confined to one or two rooms each which is prevalent in the City has not also been attempted to be prevented by the Bill.

For all these reasons I regret I am unable to give my concurrence to the Bill as it has emerged from the Select Committee.

18th April 1960.

K. BALASUBRAMANIA AIYAR